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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1204th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 14 March 1997, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Thirteenth periodic report of the Republic of Iraq (CERD/C/240/Add.3) (continued)

1. At the invitation of the Chairman, the members of the delegation of Iraq resumed their seats at the Committee table.

2. Mr. AL-AZAWI (Iraq), expressing appreciation for the understanding shown for the situation of the Iraqi people, said that he would attempt to answer the questions put to his delegation and would provide written replies where necessary.

3. With regard to the concentration of powers in the hands of the President of the Republic, he said that the Iraqi Constitution provided for the legislative, judicial and executive powers. The President, in accordance with the Constitution, was the President of the Revolutionary Command Council, which enacted laws proposed by the Assembly of Deputies. The 1990 draft Constitution contained essential amendments and additions with regard to the distribution of powers that were far more detailed than before.

4. As to the question on the rights of the Turkomans, he said that the laws to which reference had been made were being applied; Iraq's report gave further information on that matter. Turkomans had their own national language, which was taught in schools, but for obvious reasons it was not possible, at university level, to teach every subject in all the different national languages. The Turkomans could open clubs and associations, form trade unions and publish works in their own language.

5. In the Autonomous Region of Iraqi Kurdistan Kurdish was the official language in schools, the administration and the courts, as well as in some university departments. Kurdish was taught up to secondary level. Kurdish-language newspapers were widely published, including in Baghdad. The Syriac-speaking and other minorities enjoyed similar cultural rights.

6. It had been alleged that Iraq was seeking to arabize Mosul, a ridiculous assertion, given that the majority of the inhabitants were Arabs who had lived in the area for more than 1,500 years. He also rejected the claim that the central Government was bringing pressure to bear on minorities that cooperated with the Kurds.

7. It had been stated that the central Government had withdrawn from the northern region. In fact, Iraq had been prevented by military force from exercising its sovereign rights and providing services to its citizens in that region. Had government officials remained, they might well have lost their lives.

8. The assertion had also been made that Kurdish and Turkoman residents had been forced out of certain regions because oil had been discovered. Actually, oil had been extracted from those regions since the 1940s. The governorates

of Dohuk, Arbil and Sulaimaniya in the northern self-administered Kurdish region did not have oil in commercially exploitable quantities. Oil was found in the Kirkuk area, i.e. outside the Autonomous Region of Iraqi Kurdistan and an area where the Kurds were a minority.

9. Concerning the inhabitants of the southern marsh area, he pointed out that those persons were of Arab origin and were not ethnic or religious minorities. Nothing distinguished them from other Arabs living in the area.

10. To the question on amnesty he replied that a number of amnesty decrees had been published in the Official Gazette; he could make them available to the members of the Committee upon request.

11. Concerning the question of ration cards, he said that their use was well known and gave rise to no discrimination whatsoever. Every family had a ration card which covered basic commodities. It was difficult to see how that could lead to any form of discrimination.

12. It was a fact that 90 per cent of the rural areas had no drinking water, most of the hydroelectric power stations and water purification plants having been destroyed. Anyone who had been to Baghdad knew that water and electricity were cut off from time to time, a state of affairs that was worsening.

13. Clarifying a comment on the Third River, he said that at issue was an irrigation project for which plans had existed since the 1950s as part of an agricultural development programme to create new arable land.

14. In response to the request for information on the reasons for delays in the distribution of food, he pointed out that under the Memorandum of Understanding between the United Nations and Iraq, the proceeds from the sale of part of Iraq's oil were to be placed in international banks, in exchange for which humanitarian supplies would be purchased and sent to Iraq. His Government had kept its side of the agreement, but was being hindered by enormous obstacles. He would like to know why the United Nations had not implemented the agreement. That had led to an exacerbation of the tragic plight of the Iraqi population, and in particular women and children.

15. On another question concerning the Kurds, he said that under the Constitution the Vice-President of Iraq must be a member of that minority. Many ministers and diplomats were also Kurds. It was difficult for him to say exactly who was a Kurd and who was not, because it was most uncommon to make such a distinction in Iraqi society. What counted for his Government was not ethnic origin, but professional competence. In the Autonomous Region of Kurdistan, local elections were held to form the legislative and executive councils, and as Iraqi citizens Kurds enjoyed the right to be elected to the National Assembly.

16. With regard to the incorporation into domestic legislation of international human rights instruments, he said that once such instruments were ratified, they were published in the Official Gazette, after which they became an integral part of Iraqi legislation. The Administration must then ensure that they were implemented.

17. On the question whether political parties could be set up, he said that that right was guaranteed under the 1991 Political Parties Act but, given the current economic embargo and the situation in northern Iraq, it was not possible to adopt more democratic measures. Those who wanted Iraq to continue along that path should work towards improving the current climate.

18. In connection with the implementation of article 4 of the Convention, he said that incitement to commit acts of ethnic, racial, religious or other forms of discrimination was punishable under the Penal Code, but there had been no recent cases. His delegation would inquire whether any judgements had been reached by the courts in those areas and would pass on any information it received to the Committee.

19. In response to a question on the history of legislation to guarantee the rights of minorities, he said that the first such laws could be traced back to the 1940s, but new legislation was also under consideration, and it was hoped that the rights of minorities could be increased still further in the future.

20. It had been asked whether children who were members of minorities suffered more than other children. To be perfectly frank, all children in Iraq suffered deprivation equally and with the same intensity.

21. In reply to a question concerning inter-ethnic marriage, he said that Iraqi law attached no conditions to such unions; any conditions were solely those imposed by the religious communities themselves. Islamic law allowed Muslims, Christians and Jews to intermarry. Spouses could retain their original religion. A member of one minority who married a member of another could not be forced to adopt the religion of his or her spouse. Intermarriage between Arabs and Kurds was commonplace; indeed, he was unaccustomed even to considering questions of that nature.

22. He reiterated that the Convention was part and parcel of domestic legislation, which included provisions of the Penal Code concerning punishment for persons committing or aiding and abetting acts of racial discrimination; the latter encompassed assistance, incitement or participation in such an act. He was willing to provide details of judgements, although he could assure the Committee that such judgements were rare, because historically the Iraqi people were not accustomed to thinking in those terms. The Constitution was quite clear on that subject; he could provide samples of all relevant constitutional and legislative provisions.

23. He referred to the Iraqi National Act, which provided that Iraqi nationality could be revoked, by a decision of the Minister of the Interior, in only one case, namely, if an Iraqi citizen acquired another nationality. If for any reason he lost that new nationality, his original Iraqi nationality could be restored. In closing, he emphasized the country's need for the Convention to be fully implemented in view of Iraq's current situation, especially with regard to medicines and foodstuffs.

24. Mr. VALENCIA RODRIGUEZ sought confirmation that, since article 4 (b) of the Convention made no provision for specific penalties, the only way for a

plaintiff to secure direct implementation of article 4 would be to invoke before a court not only the provisions of the Convention but also article 200 of the Penal Code.

25. Mr. de GOUTTES asked if the Iraqi representative could be more explicit in describing the reasons for the difficulties in implementing the Memorandum of Understanding. In particular, he would appreciate a reply to the suggestion that there might be some discrimination - in the form of privileges, for instance, for government officials - hampering the equitable distribution of humanitarian supplies.

26. Mr. ABOUL-NASR said that although the reasons for the delays in implementation had never been spelled out officially, press reports, which he could show Mr. de Gouttes, gave them wide coverage. The Committee should perhaps refrain from discussing that matter further in order to avoid politicizing the debate. The allegations about inequitable distribution of medicines were unfounded and were an excuse for destabilizing the situation, keeping the problem alive and maintaining control over parts of Iraq, particularly the north but also the south, and in doing so depriving the Government of its sovereignty.

27. Mr. DIACONU, quoting a WHO Press Release (WHO/16), said that the problems in the implementation of the Memorandum of Understanding had now been solved, since that role had been entrusted to WHO. On the subject of the implementation of article 4 of the Convention, a more detailed analysis by the Government was needed. He endorsed Mr. Shahi's comment that the Penal Code apparently did not fully reflect the provisions of article 4, in which case it would need to be amended.

28. Mr. Al-AZAWI (Iraq) said he appreciated the concern behind the question asked by Mr. Valencia Rodriguez about article 4. Since international conventions ratified by Iraq became part of domestic legislation, a national judge could apply their provisions and refer to them in his interpretation, although it was true that in most cases judges were inclined to base their judgements on available domestic legislation in preference to international law and conventions, except in cases where a domestic law specifically referred back to an international convention. The articles of the Penal Code, however, were very clear in providing that not only the perpetrators of a discriminatory act but also any accomplices or instigators, (e.g. the press), were punishable. The provisions of international conventions or treaties were often invoked by decisions in civil suits, such as those concerning disputes between Iraqi and non-Iraqi companies. He assured the Committee that the Iraqi judicial authorities encouraged judges to apply the legal rules set forth in international conventions, and held seminars to that effect. The Committee's advice would help Iraq in developing its legislation.

29. With regard to the difficulties in implementing the Memorandum of Understanding concerning the sale of oil in return for food and medicines, Iraq had carried out its side of the agreement - understandably so, since the Government and the people, especially the poor, were impatiently awaiting the supply of food and medicines.

30. Mr. SALMAN (Iraq) offered to show members of the Committee the ration card covering basic food items. The distribution of rations was supervised by WHO, which had testified that the ration card system ensured equality among all Iraqis. With regard to the sale of oil in return for humanitarian supplies, his Government failed to understand why the sales contracts submitted to the United Nations Sanctions Committee were being blocked. Of 290 contracts submitted, only 9 had been accepted, and none of them concerned medicines. The Secretary-General himself had spoken of bureaucratic delays and urged the speeding-up of procedures, but it appeared that some quarters had an interest in delaying the arrival of humanitarian assistance. The population was suffering from the absence of such essentials as drinking water, medicines and electricity.

31. Mr. ABOUL-NASR, drawing attention to the principles of law nullum crimen sine lege and nulla poena sine lege, said that in order to be able to assess the full implementation of article 4 (a) of the Convention, the Committee needed to study the relevant provisions of domestic legislation. It was not sufficient to state that the provisions of the Convention applied because the Convention formed part of domestic law. He hoped that the relevant texts would be provided.

32. Mr. Al-AZAWI (Iraq) assured the Committee that its comments would be conveyed to the Iraqi authorities for further study and that a just solution would be found.

33. Mr. WOLFRUM (County Rapporteur) said that the dialogue with the delegation was most instructive, even if there were some differences in perception. The substantial amount of information provided orally might usefully have been given in writing, and he hoped that that would be the case when Iraq next reported to the Committee. That applied, for example, to the information on the Kurdish population. The oral statements had provided further, welcome insights into prevailing attitudes in Iraq, which were as important to the Committee as the bare facts. The reporting system afforded a useful opportunity for a State party to gather inputs from various sources and to reflect upon its position. He would therefore suggest that, in preparing the next report, the authorities should reconsider the situation that existed in Iraq and convey their positions to the Committee, whether or nor their views differed.

34. While he appreciated the measures adopted to provide primary education in the Turkoman language, further explanations were needed on steps taken to preserve the cultural and linguistic identity of the Turkomans.

35. He was aware of the Iraqi Government's position concerning the populations of the southern marsh area of the country, as reiterated by the delegation, and had therefore deliberately refrained from referring to them as a minority. He drew attention, however, to the Committee's General Recommendation VIII to the effect that self-identification was the criterion for determining membership of a racial or ethnic group. Since identification with a given group was a subjective feeling, whether it be of a minority or a majority population, and often resulted in discrimination, he would ask the Iraqi Government to consider the position of those populations, which regarded

36. Returning to the question of the internal embargo in northern Iraq, he requested the Iraqi authorities to consider the possibly discriminatory effect of Revolution Command Council Decree No. 529 of 24 August 1989 and the report of the Special Rapporteur of the Commission on Human Rights on the internal embargo. He hoped that more detailed explanations would be provided in the next periodic report.

37. It would facilitate the Committee's understanding of Iraq's complex political structure if the information provided by the Iraqi Government was divided into a core document and a specific report intended for the Committee. The Centre for Human Rights could provide technical assistance in drafting the reports. It would also make for an easier and better informed dialogue if the Iraqi authorities studied the various documents and reports on the human rights situation in Iraq to which he had referred and conveyed their response to the allegations they contained. The State party was also requested to consider the Committee's concluding observations, which were often the starting-point for members' questions and comments when the next periodic report was discussed. Finally, he observed that the format recommended by the Committee in its guidelines for reporting had been followed more closely in Iraq's previous report.

38. The CHAIRMAN thanked the Iraqi delegation for its cooperation and looked forward to further dialogue in the future.

39. The delegation of Iraq withdrew.

Draft concluding observations concerning the fourteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/50/Misc.1)

40. After a lengthy discussion on procedure for the adoption of concluding observations in which the CHAIRMAN, Mr. YUTZIS, Mr. FERRERO COSTA, Mr. ABOUL-NASR, Mr. GARVALOV, Mr. de GOUTTES and Mr. RECHETOV took part, the CHAIRMAN suggested that the meeting should be suspended.

The meeting was suspended at 5 p.m. and resumed at 5.10 p.m.

41. Mr. RECHETOV (Country Rapporteur for the United Kingdom) said that the document before the Committee (CERD/C/50/Misc.1) was an excellent summary prepared by the secretariat in which he had incorporated comments and proposals made by members of the Committee.

42. The CHAIRMAN invited members to consider the draft concluding observations concerning the United Kingdom.

Paragraph 3

43. Mr. RECHETOV (Country Rapporteur) said it had been agreed that the phrase "for some of its members," should be inserted in the second line between "and" and "requested".

Paragraph 4

44. The CHAIRMAN said that, in view of the points raised by Mr. CHIGOVERA, Mr. RECHETOV, Mr. WOLFRUM, and Mr. VALENCIA RODRIGUEZ, paragraph 4 would be redrafted and discussed at a later date.

45. It was so decided.

Paragraph 8

46. Mr. GARVALOV said that the phrase "taken into account" was too weak.

47. Mr. AHMADU suggested that "noted" would be more acceptable.

Paragraph 11

48. Mr. ABOUL-NASR suggested that the words "after 140 years" should be inserted before "equal status".

Paragraphs 13 and 14

49. Mr. YUTZIS said that since the Committee had decided to defer any decision on paragraph 4, it should do the same with regard to paragraphs 13 and 14.

Paragraph 18

50. Mr. CHIGOVERA considered that there was not enough hard evidence that implementation of the Asylum and Immigration Act 1996 was detrimental to the protection of asylum-seekers to justify its inclusion in the concluding observations.

51. Mr. FERRERO COSTA said that the reference had been made because there was some concern about discrimination against persons from certain countries in the application of the Act.

52. Mr. van BOVEN was of the view that the reference was justified, not least for reasons of consistency, as the Act had been mentioned in the Committee's concluding observations concerning the United Kingdom at the previous session (A/51/18).

53. Mr. DIACONU suggested that the words "against any racial discrimination" should be added at the end of the first sentence.

Paragraph 19

54. Mr. SHAHI said that "inexistence" should be replaced by "non-existence".

Paragraph 21

55. Mr. CHIGOVERA said that he was concerned that domestic workers of Filipino origin were mentioned specifically since the "two-week rule" was

56. Mr. WOLFRUM observed that Filipino workers were particularly disadvantaged by that rule.

Paragraph 22

57. Mr. RECHETOV (Country Rapporteur) suggested that the Committee should defer its decision on paragraph 22.

Paragraph 23

58. Mr. GARVALOV said that the grammatical structure of the first sentence was misleading; "as noted in its General Recommendation VII (32)" would be clearer.

Paragraph 24

59. The CHAIRMAN said that the words "the incorporation of" should be deleted.

60. Mr. AHMADU suggested that "useful for" should replace "essential to".

Paragraph 25

61. Mr. RECHETOV (Country Rapporteur), responding to concerns raised by some members of the Committee, said that he agreed to the deletion of the paragraph.

Paragraph 26

62. Mr. GARVALOV said that the reference to "all groups of the population" should be replaced by "all ethnic groups".

63. Mr. RECHETOV (Country Rapporteur) announced that Mr. de Gouttes had requested the inclusion of a new paragraph, after paragraph 26, asking for information on complaints of racial discrimination that had been received and their outcome.

64. The CHAIRMAN said that he would draft the paragraph and submit it to the Committee for approval.

65. The Committee would continue its consideration of the concluding observations concerning the report of the United Kingdom at a later date.

The meeting rose at 6.05 p.m.